

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DEVON CLARKE,

Petitioner,

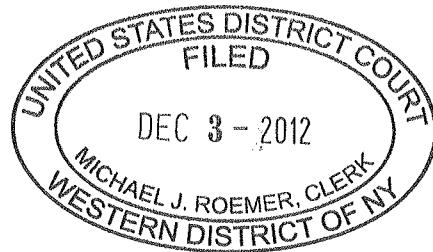
-v-

ERC H. HOLDER, Attorney General of the United States,  
et al.,

Respondents.

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DECISION AND ORDER  
12-CV-0897C



Petitioner, Devon Clarke, filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2241, challenging his continued administrative custody/detention pending removal. (Docket No. 1). Respondents have filed a motion to dismiss the petition as moot inasmuch as petitioner has been released from administrative detention pending removal pursuant to an Order of Supervision and Addendum executed on November 5, 2012. (Docket No. 4, Motion to Dismiss, Affidavit of Gail Y. Mitchell, sworn to November 8, 2012, ¶ 4, and Exh. A--Order of Supervision and Addendum).

Accordingly, in light of the fact that petitioner has been released from administrative detention, the respondents' motion to dismiss the petition is granted and the petition is dismissed. See *Masoud v. Filip*, NO. 08-CV-6345-CJSVEB, 2009 WL 223006 (W.D.N.Y., January 27, 2009) (confirming Report and Recommendation of U.S.M.J. Victor E. Bianchini) (petition for a writ of habeas corpus filed under 28 U.S.C. § 2241 seeking release from detention pending removal moot upon release of petitioner from detention pursuant to an Order of Supervision).

The Clerk of the Court is directed to forward a copy of this Order to petitioner at the address set forth in the Order of Supervision: 1120 Bergen Street, Brooklyn, New York 11216.

The Court hereby certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this judgment would not be taken in good faith and therefore denies leave to appeal as a poor person. *Coppedge v. United States*, 369 U.S. 438 (1962).

Petitioner must file any notice of appeal with the Clerk's Office, United States District Court, Western District of New York, within sixty (60) days of the date of judgment in this action. Requests to proceed on appeal as a poor person must be filed with the United States Court of Appeals for the Second Circuit in accordance with the requirements of Rule 24 of the Federal Rules of Appellate Procedure.

IT HEREBY IS ORDERED, that the petition is dismissed; and

FURTHER, that leave to appeal as a poor person is denied.

SO ORDERED.

Dated: Nov. 28, 2012  
Rochester, New York

Charles J. Siragusa  
CHARLES J. SIRAGUSA  
United States District Judge